THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 16683 of 2006

O r d e r:

The petitioner earlier filed writ petition in W.P. No. 5430 of 2006, assailing the orders dated 13.03.2006, issued by the General Manager, Indian Bank, Circle Office, Hyderabad, informing the Chief Manager, Indian Bank, Guntur, that they have relieved the petitioner for Circle Office, Hyderabad, with instructions to report for duty at Guntur. This Court, by order dated 28.04.2006, dismissed the said writ petition. Assailing the said order, the petitioner filed writ appeal in W.A. No. 565 of 2006, and a Division Bench of this Court, by order dated 13.06.2006, while declining to interfere with the order passed in the writ petition, directed the 1st respondent to consider and dispose of the appeal, said to have been filed by the petitioner, taking into consideration the pleas raised by the petitioner in accordance with law after giving due notice and opportunity of hearing to both the parties, making it clear that the orders of transfer already given effect to would be subject to the ultimate orders that may be passed by the 1st respondent in the appeal. In compliance of the order of the Division Bench of this Court, the 1st respondent, namely the Chairman and Managing Director, Indian Bank, Head Office, Chennai, considered the appeal of the petitioner and by orders dated 14.07.2006, refused to cancel the transfer order dated 23.11.2005. It is this order of the 1st respondent, which the petitioner has assailed in this writ petition.

The learned counsel for the petitioner submitted that as per the transfer policy, framed by the respondent-Indian Bank, under Regulation 47 of the Indian Bank (Officers) Service Regulations, 1979,

officers who are due to retire within three years, are entitled to seek transfer to a place of their choice, and though the Division Bench of this Court in W.A. No. 565 of 2006, by orders dated 13.06.2006, directed the 1st respondent, to dispose of the appeal filed by the petitioner, taking into consideration the pleas raised by him and after giving due notice and opportunity of hearing to both the parties, the 1st respondent without considering the pleas raised by the petitioner and without hearing him, by reason of the impugned order, has refused to cancel the transfer order, which is illegal and arbitrary. She thus prayed that the impugned order be quashed and set aside.

Heard the learned counsel for the petitioner and perused the impugned order.

The contention of the petitioner that the 1st respondent without considering the pleas raised by him, particularly
Regulation 47 of the Indian Bank (Officers) Service Regulations, 1979, which provides that officers who are due to retire within three years, can seek transfer to a place of their choice, has declined to cancel the transfer order of the petitioner, and the same is not in accordance with the directions given by the Division Bench of this Court in W.A. No. 565 of 2006, dated 13.06.2006, cannot be accepted.

As can be seen from the impugned order, the petitioner has been transferred in the normal course of employment, and he is duty bound to abide the same. The 1st respondent taking into consideration the fact that transfer is an incidence of service and part of employment of an officer in the Bank, and having regard to the fact that the terms and conditions of employment, provide that depending on the needs and exigencies, an officer/employee can be posted to any branch/office of the bank, refused to cancel the transfer order of the

petitioner, and no exception can be taken thereto, and more so when it is the case of the 1st respondent, as is evident from the impugned order, that the transfer policy, which the petitioner referred to in his appeal, merely provided broad guidelines for placement of officers.

Though the petitioner contends that the 1st respondent without considering Regulation 47 of the Indian Bank (Officers) Service Regulations, 1979, refused to cancel the transfer order, according to his own averment in the writ petition, the officers who are aged 55 years and above, are not normally transferred, and endeavour would be made by the Bank to post the officers who are due to retire in three years to place of their choice, subject to availability of requisite number of vacancies. This averment of the petitioner in the writ petition, and as is evident from the provision quoted by the petitioner in the writ petition, would make it clear that the respondent-Bank is given the discretion whether or not to transfer an officer, and whether or not transfer an employee, being the prerogative of the management, no employee, much less the persons, who are due to retire within three years, as a matter of right, can seek to be posted at a particular place, and more so when the transfer of the petitioner is said to have been made on administrative grounds.

In the above view of the matter, it cannot be said that the 1st respondent has not disposed of the appeal filed by the petitioner without taking into considering the pleas raised by the petitioner, as directed by the Division Bench of this Court in W.A.
No. 565 of 2006, dated 13.06.2006.

There is no merit in the writ petition, and the same is accordingly dismissed.

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N.V. RAMANA, J.

Dated: 28th September, 2006.
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